

**CASE NO. 16-2297**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

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THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE,

Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent,

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NATIONAL LABOR RELATIONS BOARD

CASE NO.: 20-CA-139745; 363 NLRB NO. 195

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**PETITIONER'S ANSWER TO THE REPLY OF THE  
NATIONAL LABOR RELATIONS BOARD**

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COUNSEL FOR PETITIONER,

**THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO  
ORGANIZE**

The Charging Party Petitioner submits that the National Labor Relations Board's position in this case is directly contrary to the principles of the National Labor Relations Act which protects disclosure workers who engage in union activities. The Board except in this circumstance as zealously guarded the right of employees to refuse to disclose their protected activity from employer spying or interrogation. See, Robert Gorman and Matthew Finkin, "Labor Law Analysis and Advocacy," Section 7.18 (JURIS, 2013). Witness statements provided to the NLRB are not disclosable under the Freedom of Information Act unless the witness testifies. *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214 (1978).

Although we represented to the Court that the Committee to Preserve the Religious Right to Organize had two members, one a former employee and one a current employee, we did not disclose their names for concerns over retaliation. The Labor Board would normally view any effort by an employer to seek the names of those who engage in protected, concerted activity as an unlawful form of interrogation or surveillance. The Board itself would protect the names of workers who have cooperated with the Board or who have provided evidence in support of a Charge. Nonetheless, in this case, the Board seems to have gone quite astray and has sought to force the disclosure of those individuals who have joined the Committee to remedy the unlawful Arbitration Agreement.

Both of the employees have, however, now authorized the disclosure of their names to this Court and to the public. They do so, recognizing that they may be subject to retaliation by Hobby Lobby or other employers.

Trina Reynolds is a former employee who was subject to the unlawful Arbitration Agreement. Louanne Middlekauf is a current employee who is subject to the same unlawful Arbitration Agreement. Both have authorized the use of their names and have joined the Committee to remedy Hobby Lobby's use of this unlawful Arbitration Agreement. Both have been subject to it.

For these reasons, there is plainly standing on the part of the Committee which meets both Article III standing as well as the aggrievement standard of 29 U.S.C. § 160(f).

For these reasons, the Board's Motion to Dismiss should be denied.

Date: July 20, 2016

Respectfully Submitted,

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

/s/ DAVID A. ROSENFELD

By: DAVID A. ROSENFELD  
Attorneys for PETITIONER, THE  
COMMITTEE TO PRESERVE THE  
RELIGIOUS RIGHT TO ORGANIZE

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing Petitioner's Answer To The Reply Of The National Labor Relations Board with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system on July 20, 2016.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

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I certify that the above is true and correct. Executed at Alameda, California,  
on July 20, 2016.

/s/ Karen Kempler  
Karen Kempler